IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 5336 of 2007(I)

OS.122/2001 of ADL.SUB COURT, THALASSERY
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PETITIONER:

K.A.PRABHAKARAN, S/O.KRISHNAN,
RESIDING AT LAKSHMI NIVAS,
THIRUVANGAD AMSOM, KAVUMBHAGAM DESOM,
TELLICHERRY TALUK, KANNUR DISTRICT.

BY ADV. SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.
SMT.SANJANA R.NAIR

RESPONDENT:

M/S. LORD KRISHNA BANK LTD.,
TELLICHERRY, REP. BY ITS MANAGER.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.5336/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE EXECUTION PETITION NO.440/04 IN OS. NO.122/01 FILED BY THE RESPONDENT BEFORE THE SUBORDINATE JUDGE'S COURT (ADDL) TELLICHERRY, DT.SEPTEMBER, 2004.

EXT.P2:- COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO THE RESPONDENT DT.22.8.06.

EXT.P3:- COPY OF THE SALE NOTICE PUBLISHED BY THE SUBORDINATE JUDGE'S COURT, TELLICHERRY , DT.28.5.05.

EXT.P4:- COPY OF THE CHELAN RECEIPT FOR RS. 2 LAKH DT.19.2.2007.

/TRUE COPY/

tss

M.N.KRISHNAN, J

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WP(C) No.5336 OF 2007

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Dated this the 30th day of May, 2007

JUDGMENT

This writ petition is filed seeking to stay all further proceedings before the Sub Court, Thalassery in E.P.No.440 of 2004 in O.S.No.122/2001 and further to direct the respondent to consider Ext.P2 application for one time settlement of the decree arrears.

2. Heard learned counsel for both sides. This court initially granted an order of stay of payment of Rs.2 lakhs. Subsequently it is submitted that some more amount has been paid. What is sought to be executed is the decree of the civil court. If the judgment debtor wants any concession from the decree holder, it is for him to approach the decree holder and obtain such concessions. The court cannot direct the decree holder to grant concession when there is a decree staring against the judgment debtor. So the request to direct the decree holder to consider Ext.P2 cannot be entertained. But it will not stand in the way of the decree holder in giving some concession to the judgment debtor, if it so feels. I am informed that on account of the stay order of this court, further steps had been stopped. I feel

in the interest of justice sale can be adjourned by two months and if steps are not completed it may be deferred by 2 months. If the amount is not paid within two months, the decree holder will be at liberty to proceed with the sale in accordance with law.

Writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-